

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 IKELENE M. BOH,

Case No. 2:20-cv-00350-EJY

5 Plaintiff,

6 v.

ORDER

7 ANDREW SAUL, Commissioner of Social
8 Security,

9 Defendant.

10 Before the Court is Plaintiff Ikelene Boh's Application for Leave to Proceed *in forma*
11 *pauperis*. ECF No. 1. Plaintiff challenges the Social Security Administration's denial of Social
12 Security Disability Insurance benefits and Supplemental Security Income benefits.

13 **I. Application to Proceed *in forma pauperis***

14 Plaintiff submitted the declaration required by 28 U.S.C. § 1915(a) showing an inability to
15 prepay fees and costs or give security for them. Accordingly, Plaintiff's request to proceed *in forma*
16 *pauperis* is granted.

17 **II. Screening the Complaint**

18 Upon granting a request to proceed *in forma pauperis*, a court must additionally screen the
19 complaint pursuant to 28 U.S.C. § 1915(e). A plaintiff must satisfy the following procedural
20 requirements in order to file a complaint in a Social Security appeal before a federal district court:
21 (1) the plaintiff must establish that he has exhausted his administrative remedies pursuant to 42
22 U.S.C. § 405(g), and that the civil action was commenced within sixty days after notice of a final
23 decision; (2) the complaint must indicate the judicial district in which the plaintiff resides; (3) the
24 complaint must state the nature of the plaintiff's disability and when the plaintiff claims he became
25 disabled; and, (4) the complaint must contain a plain, short, and concise statement identifying the
26 nature of the plaintiff's disagreement with the determination made by the Social Security
27 Administration and show that the plaintiff is entitled to relief. *Montoya v. Colvin*, Case No. 2:16-
28 cv-00454-RFB-NJK, 2016 WL 890922, at *2 (D. Nev. Mar. 8, 2016) (internal citations omitted).

1 Here, Plaintiff attached a December 18, 2019 letter from the Social Security Administration's
2 Appeal Council denying her request for review. ECF No. 1-3. The letter states that Plaintiff has "60
3 days to file a civil action (ask for court review)[and, further, that t]he 60 days start the day after [a
4 claimant] receive[s] this letter. [The Social Security Administration] assume[s a claimant] received
5 this letter 5 days after the date on it[.]" *Id.* at 3. Plaintiff's Complaint, filed on February 18, 2020,
6 is timely. In addition, Plaintiff's Complaint indicates the judicial district in which she resides (ECF
7 No. 1-2 ¶ 4); alleges that she suffers from "medically severe impairments of degenerative joint
8 disease of the SI joint, degenerative disc disease, Fibromyalgia, Lupus, status post remote intestinal
9 surgery, left shoulder rotator cuff tear, and status post-surgical repair" and, as a result, "became
10 disabled on January 1, 2016" (*id.* ¶ 7); and, states that the Commissioner committed error by
11 improperly "weighing the opinion evidence in this case, evaluating credibility, and [failing to]
12 support[] the finding of non-disability with substantial evidence." (*id.* ¶ 8). Plaintiff's Complaint
13 shall therefore proceed against Defendant.

14 Accordingly,

15 IT IS HEREBY ORDERED that Plaintiff's Application for Leave to Proceed *in forma*
16 *pauperis* (ECF No. 1) is granted.

17 IT IS FURTHER ORDERED that Plaintiff's Complaint (ECF No. 1-2) **shall** proceed against
18 Defendant.

19 IT IS FURTHER ORDERED that the Clerk of the Court **shall** detach and file Plaintiff's
20 Complaint (ECF No. 1-2).

21 IT IS FURTHER ORDERED that the Clerk of the Court **shall** serve the Commissioner of
22 the Social Security Administration by sending a copy of the Summons and Complaint by certified
23 mail to: (1) Office of the Regional Chief Counsel, Region IX, Social Security Administration, 160
24 Spear Street, Suite 800, San Francisco, CA 94105, and (2) the Attorney General of the United States,
25 Department of Justice, 950 Pennsylvania Ave. NW, Washington DC 20530.

26 IT IS FURTHER ORDERED that the Clerk of the Court **shall** issue Summons to the United
27 States Attorney for the District of Nevada, and deliver the Summons and Complaint to the U.S.
28 Marshal for service.

1 IT IS FURTHER ORDERED that Defendant **shall** have **sixty (60) days** from the date of
2 service to file their answer or responsive pleading to Plaintiff's Complaint in this case.

3 IT IS FURTHER ORDERED that, henceforth, Plaintiff **shall** serve upon Defendant a copy
4 of every pleading, motion, or other document submitted for consideration by the Court. Plaintiff
5 shall include with the original paper submitted for filing a certificate stating the date that a true and
6 correct copy of the document was mailed to Defendant. The Court may disregard any paper received
7 by a district judge, magistrate judge, or the Clerk of the Court which fails to include a certificate of
8 service.

9 DATED THIS 1st day of April, 2020.

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12 ELAYNA J. YOUCHAH
13 UNITED STATES MAGISTRATE JUDGE
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